

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION**

**Plaintiff,**

**v.**

**TENNESSEE HEALTHCARE  
MANAGEMENT, INC.,  
HCA HEALTHCARE, INC.,  
GME OVERHEAD,**

**Defendants.**

**Civil Action No. 3:23-cv-00777  
Judge Aleta A. Trauger**

**Jury Demand**

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**PLAINTIFF’S MEMORANDUM IN SUPPORT OF MOTION TO DISMISS WITHOUT  
PREJUDICE UNDER FEDERAL RULE OF CIVIL PROCEDURE 21, DEFENDANT  
GME OVERHEAD**

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Plaintiff Equal Employment Opportunity Commission moves to dismiss Defendant GME Overhead based on the arguments advanced in Defendants Motion to Dismiss. Doc. No. 25. The parties agree that this Court should dismiss GME Overhead from this lawsuit under Federal Rule of Civil Procedure 21. The causes of action set out in the Complaint remain pending as to the remaining Defendants, Tennessee Healthcare Management, Inc., and HCA Healthcare, Inc.

Under Rule 21, the court may, on motion or on its own, add or drop a party from a lawsuit. Typically, a party move to dismiss an action under Fed. R. Civ. Pro. 41(a). But “[i]n the Sixth Circuit, a plaintiff may only dismiss an ‘action’ using Rule 41(a), and an ‘action’ is interpreted to mean the ‘entire controversy.’” *Cornelius v. Cap. One Bank (USA), N.A.*, No. 5:19-CV-207-JMH, 2020 WL 2044725, at \*1 (E.D. Ky. Apr. 28, 2020) (quoting *Phillip Carey Mfg. Company v. Taylor*, 286 F.2d 782,785 (6th Cir. 1961)). “Rule 21, however, may be used for the dismissal of a single

defendant.” *Id. See Taylor*, 286 F.2d at 785 (“we think that [Rule 21] is the one under which any action to eliminate” a single defendant should be taken); *Wilkerson v. Brakebill*, No. 3:15-cv-435-TAV-CCS, 2017 WL 401212 (E.D. Tenn. Jan. 30, 2017)(“Rule 21 is the more appropriate rule.”). This Court has also held that Rule 41(a)(1) may be used only to dismiss an entire action and may not be used to dismiss individual defendants. *See Burgess v. Experian Info. Sols.*, No. 3:11-00793, 2012 WL 379591 at \*1 – 2 (M.D. Tenn. Feb. 3, 2012).

For the above reasons, the Commission asks the Court to dismiss the individual Defendant GME Overhead, without prejudice, from the proceedings.

Respectfully submitted,

**ATTORNEYS FOR PLAINTIFF**

KARLA GILBRIDE  
GENERAL COUNSEL

CHRISTOPHER LAGE  
Deputy General Counsel

FAYE A. WILLIAMS  
Regional Attorney  
TN Bar No. 011730  
faye.williams@eeoc.gov

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Memphis District Office  
200 Jefferson Avenue, Suite 1400  
Memphis, TN 38103  
(901) 544-0158

/s/ Gary Sullivan  
GARY SULLIVAN  
Assistant Regional Attorney  
AR Bar No. 92051  
gary.sullivan@eeoc.gov

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Little Rock Area Office  
820 Louisiana Street, Suite 200  
Little Rock, AR 72201  
(501) 900-6140

/s/ Marcerious D. Knox

MARCERIOUS D. KNOX

Trial Attorney

TN Bar No. 036851

marcerious.knox@eeoc.gov

/s/ Raquel A. Cato

RAQUEL A. CATO

Trial Attorney

TN Bar No. 040675

raquel.cato@eeoc.gov

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Nashville Area Office  
220 Athens Way, Suite 350  
Nashville, TN 37228  
(615) 736-5784

**CERTIFICATE OF SERVICE**

I certify that on February 2, 2024, a copy of the foregoing was filed electronically. Notice of this filing will be sent through the Court's electronic filing system to all parties stated on the electronic filing receipt.

Robert E. Boston (TN BPR # 009744)  
Frederick L. Conrad III (TN BPR # 032043)  
Holland & Knight LLP  
511 Union Street, Suite 2700  
Nashville, Tennessee 37219

*s/ Marcerious D. Knox*

Marcerious D. Knox

*s/ Raquel A. Cato*

Raquel A. Cato